

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HONORABLE ANDRÉ BIROTTE JR., JUDGE PRESIDING

UM CORPORATION, a Japanese corporation,
Plaintiff and Counterdefendant,
vs.
TSUBURAYA PRODUCTIONS CO., LTD., a Japanese corporation,
Defendant and Counterclaimant.

No. CV 15-3764-AB-AJW

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Wednesday, November 8, 2017, 1:22 P.M.

Day 2 of Jury Trial, Page 1 through 88, Inclusive

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3 *(The following was held outside the jury's presence:)*

4 THE CLERK: All rise.

5 THE COURT: All right. Can we try to have a brief
6 discussion about this exhibit particularly because I'm
7 really concerned about Exhibit 1, the book, 129, I guess, or
8 139. I just want to make sure I understand Mr. Chibib.

9 Your contention is that it's admissible under
10 803(d)(1)(C) that -- I'm sorry. I left it in chambers. One
11 moment, please.

12 *(Pause in the proceedings.)*

13 MR. CHIBIB: 801(d)(2), Your Honor.

14 THE COURT: 801(d)(2), an opposing party.

15 Okay. Let me just look through it again. An
16 opposing party states. Okay. But what exception in (d)(2)?
17 There is A, B, C, D.

18 So are you saying that this was a statement
19 offered against the opposing party and it is one made by --
20 and was made by a person whom the parties authorized to make
21 a statement on the subject?

22 MR. CHIBIB: It's subsection D, Your Honor.

23 THE COURT: D, was made by the party's agent or
24 employee on a matter within the scope of that relationship
25 while it existed.

1 So, I guess to slice it a little further, the
2 statement about the financial condition was made by the
3 party's agent and employee on a matter within the scope of
4 that relationship.

5 But his feelings about suicide, was that also made
6 within the scope of that relationship while it existed? I
7 mean what -- and does it matter?

8 MR. CHIBIB: I don't think it does matter, Your
9 Honor. I think that that's the statement that he made. He
10 made the statement that the losses and the financial
11 condition made him contemplate suicide. I think that one,
12 you know, without the other doesn't make any sense to
13 discuss. We actually have a case --

14 THE COURT: Why not? Why doesn't it make any
15 sense besides the obvious you want it.

16 MR. CHIBIB: No, no, no.

17 THE COURT: But isn't the real issue of the
18 argument you made before the jury is that they were in
19 horrible financial straits and so they needed money and
20 that's why they did what they did.

21 MR. CHIBIB: Right. The point we're trying to
22 make, of course, is his state of mind as of the entering
23 into the agreement; and I think that one statement of just
24 the financial distress, I agree with you. I think we've got
25 some evidence in on that already but we don't have the

1 second part.

2 I do think there is a relevant case I can give
3 Your Honor that relates to the agency notion of whether he's
4 acting in his representative capacity.

5 It was cited actually in one of our motions in
6 limine relating to a different matter.

7 THE COURT: Okay.

8 MR. CHIBIB: On Docket 225 at page 7, line 27,
9 through page 8, line 3; and I can give you the Westlaw cite
10 as well.

11 THE COURT: All right.

12 MR. CHIBIB: It's 2016 Westlaw 574-5078. This is
13 a Central District of California case, Ninth Circuit.

14 THE COURT: Walk me through it, please.

15 MR. CHIBIB: The specific statement that we quote,
16 Your Honor, is to be admissible the statements need not be
17 within the scope of the declarant's agency but need only be
18 related to a matter within the scope of the agency.

19 So we would claim that his statement is made
20 related to a matter within the scope of his agency. His
21 thoughts on suicide are related to the financial condition
22 of the company which was clearly within the scope of agency.

23 THE COURT: Okay. All right. And then help --
24 walk me through. Assuming I agree with you, how does this
25 witness get that in?

1 MR. CHIBIB: Your Honor, I think we will have to
2 put it through another witness who is more aware of the book
3 and has read the book.

4 THE COURT: Okay.

5 MR. CHIBIB: We're trying to overcome hearsay
6 right now and then, if and when we do that, then, you know,
7 we'll have to deal with our foundation issues.

8 THE COURT: Right.

9 Mr. Quinn, what if anything do you have to say in
10 response?

11 MR. QUINN: I don't think his comments about
12 suicide are made within the scope of his employment. I
13 mean, I think Your Honor hit the nail on the head.

14 THE COURT: Right. But I guess the question is,
15 when you read the section, it simply says was made by the
16 party's agent or employee on a matter within the scope of
17 that relationship while it existed.

18 He made the statement and it was within the scope
19 of that relationship; and so what I am struggling with and I
20 haven't been able to find any cases on it, quite frankly, do
21 you parse out and say that particular -- do you cut only
22 certain statements that you think a board would give the
23 okay to make this statement or not?

24 Or just the mere fact he says in that capacity is
25 enough to overcome the hearsay exception.

1 MR. QUINN: I think their best argument is the
2 statements he makes regarding the financial condition. I
3 think they're really going too far afield to say that his
4 own thoughts about suicide are made within the scope of his
5 agency.

6 His mental state is not within the scope of his
7 agency. His thoughts about that are not within the scope of
8 his agency. That's really what they want to get to here.

9 If they want to quote that we were in extreme --
10 if there's something in the book and they can get over the
11 foundation hurdles, something in where he says: We were
12 having really bad times financially, they've got their best
13 argument there.

14 But to go on and quote him and say: I
15 contemplated suicide. I don't see how that can be within
16 the scope of the relationship.

17 THE COURT: Well, let me just take a look at it.
18 I mean, but he's saying: I contemplated suicide because of
19 the dire financial straits of the company. That's how bad
20 it was.

21 And what page is this -- the part that you seek to
22 introduce, Mr. Chibib?

23 MR. CHIBIB: On Exhibit 139, Your Honor?

24 THE COURT: Yes.

25 MR. CHIBIB: There's a few parts but let me get to

1 the part that we're actually discussing here.

2 THE COURT: Is it 139-12?

3 MR. CHIBIB: 139-11, Your Honor. It's starting at
4 the bottom. Well, it's that whole last few paragraphs. It
5 says: The debts were vast and getting rid of the assets
6 couldn't pay for them. Undescribable pressure from those
7 debts.

8 And then at the time, you know, continuing on, it
9 says: What if I jumped down from here and killed myself?
10 If I died, I would be able to escape the debts. How nice
11 that would be? I was seized by the temptation to die.

12 THE COURT: No, it says: We would be able to
13 escape the debts.

14 MR. CHIBIB: Yes.

15 And I also wanted to mention 803-16, Your Honor,
16 as well and this is still an ancient document. There is
17 additional --

18 THE COURT: No, look. I get that you all are
19 relying heavily on these old documents; but that may be but
20 you still have to authenticate it.

21 And if you have another witness, then I guess
22 that's another story. But at least from the witness that
23 I've heard here, I have some questions about it.

24 MR. CHIBIB: Correct, Your Honor. We're just
25 talking about hearsay right now.

1 MR. QUINN: Your Honor, on this page there's a
2 whole paragraph where he talks about vast debts, couldn't
3 get close to paying them, et cetera.

4 And then you have to skip down another paragraph
5 to get to a one-sentence paragraph at the end of the page:
6 If I died, would we be able to escape the debts? How nice
7 that would be? I was seized by the temptation to die.

8 They can get the first part. That's what they
9 need. The suicide, they don't really need. It's besides
10 the point.

11 THE COURT: I know you believe that --

12 MR. QUINN: Well --

13 THE COURT: -- but there are four people to the
14 your left that feel differently.

15 MR. QUINN: You know, sure, I understand that.
16 But I also think there is a prejudice argument here on our
17 side. At that point when you're talking about mental state,
18 his writing: If I just jumped, would that be better?

19 At that point, isn't the prejudice to us? Doesn't
20 that outweigh the probative value? Especially when they've
21 got this whole paragraph before where he's going on about
22 how bad things were at the company.

23 So I think there's a prejudice argument when
24 you're talking about a guy -- it's inflammatory -- a guy
25 contemplating taking his life. What really does that add?

1 MR. CHIBIB: May I respond, Your Honor?

2 THE COURT: Yes, Mr. Chibib.

3 MR. CHIBIB: Just briefly, I think that, you know,
4 what TPC is arguing in this case is that Mr. Noboru never
5 would have entered into this contract, he would never have
6 agreed to these terms; and I think that this is extremely
7 probative to exactly why he would enter into this contract.

8 THE COURT: All right.

9 Look, I've thought about this. Look, on balance,
10 I mean, it is certainly a close call; but I think when you
11 read the statements in its totality and he talks continually
12 about we, we, we, he's clearly talking about the company.

13 I think on balance I'm going to allow the document
14 to come in so, you know, obviously, I think it's a close
15 call but I would strongly advise counsel for UM Corp, there
16 seems to be a lot of assumptions on documents from foreign
17 territories and I would just ask you to rethink that so we
18 don't have to go through this exercise for each and every
19 document.

20 Because like I said, I think it's admissible if
21 you can lay the foundation and I just don't know that you
22 have it with this witness so I'll allow this in.

23 So let's please bring in the jury and we can
24 resume with the trial.

25 *(Pause in the proceedings.)*

1 THE COURT: And let's get the witness and put him
2 in the witness chair, please.

3 THE CLERK: All rise.

4 *(The jurors entered the courtroom.)*

5 THE CLERK: Please be seated.

6 PLAINTIFF'S CASE-IN-CHIEF RESUMED

7 THE COURT: All right, Mr. Chibib, you may resume
8 your questioning.

9 MR. CHIBIB: Thank you, Your Honor.

10 SHINICHI OOKA, PLAINTIFF'S WITNESS, RESUMED

11 **CROSS-EXAMINATION**

12 BY MR. CHIBIB:

13 Q. Welcome back, Mr. Ooka.

14 A. Yes.

15 Q. So we were talking right before the break about a
16 couple of exhibits, Exhibit 1061, and I'd also like you to
17 look at Exhibit 1066, please.

18 A. Yes.

19 Q. Okay. Exhibit 1061 is titled "Contract"; correct?

20 A. Yes, that's what it says.

21 Q. And the contract regards a movie entitled "Jambo A and
22 Giant"; correct?

23 A. That's what it says.

24 Q. And on the left of the document is a signature that
25 reads "Koichi Takano"; correct?

1 A. It appears to be the case.

2 Q. And as we discussed, Mr. Takano used to be the managing
3 director of TPC; correct?

4 A. There was a time period when he was.

5 Q. Okay. And then if you turn to the last page, the
6 English translation -- and I understand you don't read
7 English but I will read it to you.

8 On the left it says, "The copy is authentic
9 certified copy. Signature Koichi Takano."

10 Do you see that written there? And may I ask the
11 translator to translate it, please.

12 A. That's what's written here.

13 Q. Okay. If you can pull out Exhibit 1066, please, and
14 turn to page 1066-8.

15 A. (Witness complies.)

16 Q. Again, this is an English translation of a Thai
17 document. I'll read it again. On the top left it says
18 "Statement of Mr. Koichi Takano being a witness who gives
19 the statement."

20 Can I ask the interpreter to read that, please.

21 THE INTERPRETER: Counsel, do you want me to read
22 the entire document or part of the document?

23 MR. CHIBIB: I just wanted that statement read.
24 What I just read, "The statement of Mr. Koichi Takano being
25 a witness who gives the statement."

1 THE WITNESS: Yes.

2 BY MR. CHIBIB:

3 Q. Okay. And if you turn the page to 1066-9, the very
4 bottom, the document reads, the statement reads, "The
5 agreement was signed by Mr." --

6 MR. QUINN: Excuse me, Your Honor, I object.
7 There's no foundation laid. It's hearsay. The document
8 shouldn't be read to the jury at this point.

9 THE COURT: The objection is sustained.

10 MR. CHIBIB: Your Honor, 1061 has the signature of
11 a man who is providing --

12 THE COURT: Let's approach at sidebar.

13 MR. CHIBIB: Yeah, yeah.

14 *(The following was held at the bench:)*

15 THE COURT: Before we begin, I just want to advise
16 all counsel. The microphones are very hot. When you're
17 whispering, I can hear. I can't hear the content but I can
18 hear chatter and I don't know if the jurors can hear it or
19 not but just be mindful of it.

20 Unfortunately, they are not -- you have to hold on
21 to it. You have to press it actively to shut it off. It's
22 not like you can just turn it on and off.

23 So if you're going to whisper to each other, press
24 the button while you're talking.

25 All right. So we're talking about 1066-9. Okay.

1 Now you're telling her to read the statements of another
2 witness; correct?

3 MR. CHIBIB: First, this is a sworn statement by a
4 TPC employee provided to a foreign government; but what I
5 was trying to read, Your Honor, was the reference to 1061.

6 So it says here the agreement was signed by
7 Mr. Sompote and Mr. Noboru on this date, an agreement
8 between TPC and Mr. Sompote made in order to produce the
9 movie "Jumbo A" with the character "Jumbo A." So I'm trying
10 to tie it in.

11 This is what I'm attempting to do. This statement
12 from Mr. Takano says: I provided this document already
13 submitted to the inquiry officer and he references the film
14 made with "Jumbo A" which is what this contract says.

15 And so this is the foundation that you asked me to
16 lay. This is his signature.

17 THE COURT: Right. Okay. And he acknowledged
18 that that appears to be the signature of Mr. Takano. So
19 can't you ask this witness about the contents of this
20 document? Is that what you're trying to get at?

21 MR. CHIBIB: Yes, Your Honor. Yes, I would be
22 happy to just talk about 1061. 1061 and 129 are identical
23 except for the signatures.

24 THE COURT: Right. And so you're going to ask him
25 does this contract purport to have an agreement between

1 these two companies? Is that what --

2 MR. CHIBIB: We want to use this document mostly
3 for the signature. So if this is a contract between those
4 companies and then I would like to see if you'll admit that
5 they provided it to the Thai authorities.

6 THE COURT: But why do you need to have this
7 witness admit that Mr. Takano -- that Mr. Takano provided
8 this to the Thai government? Does he know that?

9 MR. CHIBIB: Well, I mean, Mr. Takano is not
10 alive. There's no one at TPC here that is a witness that
11 was there in, I don't know, in 1998 when this happened.

12 So the point is that if he can -- he was the CEO
13 during the litigation. If he can say, yes, we had this
14 inquiry; yes, this guy provided this document, that would
15 really help from the standpoint that they're claiming this
16 is authentic and now claiming it is not.

17 MR. WEXLER: Your Honor.

18 THE COURT: Yes, Mr. Wexler.

19 MR. WEXLER: This is one the documents where the
20 signature's authenticity is disputed along with Exhibit 4A
21 which came in before; and the point of getting this document
22 in is because the parties' handwriting examiners are going
23 to be opining as to whether this signature is authentic or
24 not.

25 So the document is almost coming in not for this

1 being an authentic document but for being the document that
2 the parties are disputing the authenticity of the signature
3 on.

4 THE COURT: Okay. I'm a little confused here.
5 This signature on the bottom of 22113, this signature, the
6 parties disagree as to its authenticity and your experts is
7 going to say that this was Mr. Sompote's signature?

8 MR. CHIBIB: Mr. Noboru's signature.

9 THE COURT: And your expert is going to say this
10 is not his signature?

11 MR. QUINN: Right.

12 THE COURT: But I guess the part I'm struggling
13 with is that -- I mean, I still haven't heard how this is
14 admissible. I mean, this witness doesn't know anything
15 about this.

16 I mean, you keep asking him questions which is
17 your right but he doesn't really suggest that he knows
18 anything about this document; and if that's the case, how
19 can he authenticate a document that he knows nothing about?

20 MR. CHIBIB: Other than that was in their files.
21 This came from them. It's their signature. It's not like
22 we would have had it.

23 THE COURT: I get this. But you're saying this
24 came from them, a signature of an employee. Okay. I may be
25 wrong on this but the stamp above the signature on both

1 sides of the signature, is that in Japanese?

2 MR. CHIBIB: Thai. And it's translated in the
3 back.

4 MR. WEXLER: These two documents together are
5 effectively a declaration filed in Thailand saying that, you
6 know, this is the document. That's what we think. So the
7 underlying issue is can we use this effectively as a
8 statement to the police in Thailand to authenticate this
9 through this witness?

10 THE COURT: I'm having difficulty making that
11 connection. I mean, I'll allow you to be heard, Mr. Quinn;
12 but I'm having some real difficulty because in order to do
13 what I think you're trying to do, you would be in essence
14 reading this declaration from a Thai authority that he knows
15 nothing about that talks about things about what Mr. Takano
16 told Thai officials about this contract.

17 MR. CHIBIB: Well, under oath. I mean, this is a
18 sworn statement.

19 THE COURT: No, I understand that. But I thought
20 we were trying -- well, I was trying to avoid discussions
21 about all this litigation in other countries. I mean, we're
22 supposed to be dealing with the issues here.

23 But Mr. Quinn.

24 MR. QUINN: He didn't even say this is the
25 gentlemen's Takano's signature. What counsel asked was: Do

1 you see the signature there where it says that?

2 Yes.

3 He hasn't identified anything.

4 THE COURT: Although I think he said it appears to
5 be a signature but I may be wrong on that but --

6 MR. QUINN: I don't think he even said that so
7 there's no foundation he has seen any of these documents yet
8 previously.

9 MR. WEXLER: Wasn't that what his testimony was?
10 He was testifying about all these agreements, about what the
11 seals and the signatures. He testified as to all of
12 TPC's --

13 THE COURT: Right.

14 MR. WEXLER: I'm sorry for interrupting, Your
15 Honor. I apologize.

16 THE COURT: It's one thing for him to testify
17 about all the agreements; but if you show him an agreement
18 and he says: I don't know what this is, I don't understand
19 how just because he made a prior statement that I know about
20 all these agreements that this comes in.

21 You may be able to impeach him and say he says he
22 knows about all these agreements. But we show him the
23 agreement and he conveniently doesn't know about that
24 agreement.

25 But I'm not hearing anything that's convincing me

1 that through this witness that these documents come in so
2 the objection is sustained.

3 MR. QUINN: Thank you, Your Honor.

4 MR. CHIBIB: Thank you.

5 *(The following was in open court in the jury's presence:)*

6 THE COURT: You may continue.

7 MR. CHIBIB: Thank you, Your Honor.

8 Q. Let's shift gears, Mr. Ooka. Would you please pull out
9 again Exhibit 4A and if I could have 4A up on the screen,
10 please.

11 *(The exhibit was displayed on the screen.)*

12 MR. CHIBIB: Thank you.

13 THE WITNESS: Yes.

14 BY MR. CHIBIB:

15 Q. Mr. Ooka, it's TPC's position -- Right? -- that Exhibit
16 4A is not valid; right?

17 A. Yes, that's right.

18 Q. And let's start with the obvious. You weren't working
19 at TPC in 1976. You don't know if this agreement is valid
20 or not; correct?

21 A. Even though I was not working at Tsuburaya Productions
22 back then, based on the document, what's written there, I am
23 confident that this is not valid.

24 Q. Right. But that wasn't my question. My question was
25 you don't know whether this agreement is valid or not;

1 correct?

2 A. I have it right in front of me and I read it.

3 THE INTERPRETER: Can I have your question again?

4 BY MR. CHIBIB:

5 Q. You have no personal knowledge of whether Exhibit 4A is
6 valid or not; correct?

7 A. Whether I have personal knowledge or not, I was the
8 president of Tsuburaya when this dispute started and I have
9 a clear judgment in my position as the president. This is
10 not valid.

11 Q. Mr. Ooka, I'm asking you questions and I asked you: Do
12 you have any personal knowledge of whether Exhibit 4A is
13 valid?

14 A. I don't understand the meaning of your question.

15 Q. I think my question is very simple. Were you with
16 Mr. Noboru on March 4th, 1976?

17 A. No, I was not.

18 Q. Right. You didn't follow him around. You have no idea
19 whether he signed this agreement or not.

20 A. That I don't know.

21 Q. Exhibit 4A is on Tsuburaya Enterprise letterhead;
22 correct?

23 A. Although that's what's written here, I wouldn't know
24 whether this is a true Tsuburaya Enterprise letterhead or
25 not.

1 Q. Isn't it true that -- well, strike that.

2 Okay. Let me -- the address shown there on
3 Exhibit 4A under the letterhead, that is the address for
4 Tsuburaya Enterprises at that time in 1976?

5 A. I think so.

6 Q. Okay. Would you mind looking at Exhibit 131? It
7 should be in your binder.

8 A. Yes.

9 Q. Exhibit 131, do you recognize it?

10 A. Yes, I do.

11 Q. Okay. And this is on Tsuburaya Enterprise letterhead;
12 correct?

13 A. It appears to be the case but I'm not certain.

14 Q. Okay. And it's signed by Noboru Tsuburaya; correct?

15 A. It appears to be Mr. Noboru's signature but I'm not
16 certain.

17 MR. CHIBIB: Your Honor, I'd offer Exhibit 131 in
18 evidence, please.

19 THE COURT: Any objection?

20 MR. QUINN: No foundation, Your Honor.
21 Authenticity.

22 MR. CHIBIB: Your Honor, they've raised no
23 objection to this exhibit prior --

24 THE COURT: All right. We'll discuss it at the
25 break.

1 MR. QUINN: Your Honor, I withdraw the objection.

2 THE COURT: All right. 131 will be admitted.

3 *(Exhibit 131 received in evidence.)*

4 MR. CHIBIB: Thank you.

5 May I get 4A and 131 up, please.

6 *(The exhibit was displayed on the screen.)*

7 BY MR. CHIBIB:

8 Q. Mr. Ooka, the address under the letterhead of
9 Exhibit 131 is the same as the address under the letterhead
10 on 4A; correct?

11 A. Yes, the same.

12 Q. So the address -- I'm sorry. Exhibit 131 is dated
13 November 13, 1973; correct?

14 A. Yes.

15 Q. Okay. If you wouldn't mind, sir, looking at
16 Exhibit 173. This is not in your binder, Mr. Ooka, so it
17 should be in one of the black binders.

18 No, I apologize. It should be in a white binder,
19 173.

20 A. It's not here.

21 Q. It's not in the binder that is --

22 THE COURT: It's the white binder to your left,
23 Madam Interpreter.

24 MR. CHIBIB: It's a white binder with 101 through
25 225.

1 THE WITNESS: 173, yes.

2 BY MR. CHIBIB:

3 Q. Exhibit 173 is also on Tsuburaya Enterprise letterhead;
4 correct?

5 A. It appears to be the case.

6 Q. And it's also signed by Noboru Tsuburaya; correct?

7 A. It appears to be the case.

8 Q. All right. And it's dated May 19, 1977?

9 A. Yes.

10 Q. Okay. Can you tell me please what Exhibit 173 is.

11 A. The contents of it?

12 Q. Just what it is.

13 A. I think this is the letter Mr. Noboru wrote to
14 Mr. Rankin.

15 MR. CHIBIB: Your Honor, I would offer Exhibit 173
16 into evidence, please.

17 MR. QUINN: No objection.

18 THE COURT: 173 will be admitted into evidence.

19 *(Exhibit 173 received in evidence.)*

20 BY MR. CHIBIB:

21 Q. Mr. Ooka, the address under Tsuburaya Enterprises on
22 the right of the screen there is X'd out under the first
23 line. Do you see that?

24 A. Yes.

25 Q. And the new address is written beneath it; correct?

1 A. Yes.

2 Q. And if you look down to the PS line of the letter, it
3 states that "The address of Tsuburaya Enterprises has been
4 changed as indicated above recently."

5 Do you see that?

6 A. Yes.

7 Q. So we know that as of May 19, 1977, the letterhead for
8 Tsuburaya Enterprises was different than the letterhead in
9 Exhibit 4A and Exhibit 131; correct?

10 A. Yes, we know that.

11 Q. Would you mind pulling out Exhibit 138, please. I
12 think it's in your binder.

13 A. Yes.

14 Q. Do you recognize Exhibit 138?

15 A. Yes.

16 Q. Can you tell us what this is, please.

17 A. An invoice to Thai Burin Company.

18 Q. I'm sorry. I think you're looking at the wrong
19 exhibit. The exhibit number is 1-3-8.

20 A. Yes.

21 Q. Do you recognize this?

22 A. Yes.

23 Q. Please tell us what it is.

24 A. This is the certificate for Tsuburaya Enterprise stamp
25 Inkan.

1 Q. Okay. And this is signed by Mr. Noboru Tsuburaya;
2 correct?

3 A. I don't think there is a signature here.

4 Q. Okay. This was -- the applicant on Exhibit 138 is
5 Noboru Tsuburaya, the Representative Director; correct?

6 A. Yes.

7 Q. And this is the application that Tsuburaya Enterprises
8 provided to the Japanese Legal Affairs Bureau; correct?

9 A. Yes.

10 MR. CHIBIB: Your Honor, I'd like to offer
11 Exhibit 138 into evidence, please.

12 MR. QUINN: No objection.

13 THE COURT: All right. 138 will be admitted.

14 *(Exhibit 138 received in evidence.)*

15 *(The exhibit was displayed on the screen.)*

16 BY MR. CHIBIB:

17 Q. Exhibit 138 is dated in December of 1974; correct?

18 A. Let me convert into the western year. Yes, it's 1974.

19 Q. Okay. And I've put it up on the screen. But this type
20 of document, this sealed certificate delivery application is
21 the way that companies in Japan will register their hanko
22 seal with the Japanese government; correct?

23 A. Yes.

24 Q. And that circular seal we're looking at right there,
25 there's two of them, but those are both the official hanko

1 seal for Tsuburaya Enterprises at that time; correct?

2 A. Well, this is a copy and I don't know -- I have never
3 seen a real seal hanko back then but I think that this is
4 the case.

5 Q. Okay. This was filed with the Japanese government --
6 Correct? -- Exhibit 138?

7 A. Yes.

8 Q. Okay. Would you mind looking at Exhibit 375. I don't
9 believe that's in his binder so it will be in a white
10 binder.

11 A. 375? Yes.

12 Q. Okay. What is Exhibit 375?

13 A. This is Tsuburaya Enterprise letterhead which
14 Mr. Noboru's hanko seal and Inkan are placed.

15 MR. CHIBIB: Thank you.

16 Your Honor, I would offer Exhibit 375 into
17 evidence.

18 THE COURT: Any objection?

19 MR. QUINN: No objection.

20 THE COURT: All right. 375 will be admitted.
21 *(Exhibit 375 received in evidence.)*

22 MR. CHIBIB: Could I have 375 and 138 together,
23 please.

24 *(The exhibits were displayed on the screen.)*
25

1 MR. CHIBIB: And would you please zoom in on the
2 hankos for both of these, please.

3 (The exhibits were displayed on the screen.)

4 BY MR. CHIBIB:

5 Q. So the one on the right from Exhibit 375 is the hanko
6 seal for Tsuburaya Enterprises and the one on the left is
7 also; correct?

8 A. Yes.

9 MR. CHIBIB: Can I put 4A up as well? Keep them
10 all up? Is there a way you can do that?

11 Let's take 138 down and put 4A in its place,
12 please.

13 (The exhibit was displayed on the screen.)

14 MR. CHIBIB: And can I look at the hanko for that,
15 please.

16 (The exhibit was displayed on the screen.)

17 BY MR. CHIBIB:

18 Q. And that's the hanko on the left from Exhibit 4A;
19 correct?

20 A. They appear to be the same but this is a copy; and
21 since I'm not an expert, I can't tell whether they are
22 exactly the same.

23 Q. Okay. But the one on the left is from 4A; correct?

24 A. Yes.

25 Q. Okay. Let me shift gears. We'll leave Exhibit 4A up,

1 please.

2 Mr. Ooka, earlier you testified with Mr. Quinn
3 about certain mistakes that were in the titles of some of
4 the works in the 1976 Agreement. Do you remember that?

5 A. Yes.

6 Q. And you provided testimony about Section 1.3,
7 "Ultraman 1" and "Ultra Q," didn't you?

8 A. Yes.

9 Q. And also about Section 1.4, "Ultraman 2"?

10 A. Yes, I did.

11 Q. And also about 1.5, "Ultraman Seven"; correct?

12 A. Yes.

13 Q. You didn't offer any testimony about any of the other
14 sections in Section 1 -- in Article 1; correct?

15 A. I did not testify. However, there is or there are
16 mistakes.

17 Q. Well, that wasn't my question. You did not testify
18 about anything other than 1.3, 1.4, and 1.5; correct?

19 A. Correct.

20 Q. Okay. Let's look to Exhibit 171, please. It should be
21 in your witness binder.

22 A. 171?

23 Q. Yes, please.

24 A. Yes.

25 Q. You talked about this film earlier. Can you tell me

1 what Exhibit 171 is, please.

2 A. You have a Japanese translation?

3 Q. I believe it's on that document, a few pages in.

4 A. Yes, I see it.

5 Q. Okay. Can you tell me what Exhibit 171 is, please.

6 A. It says, "Agreement pertaining to screening and
7 distribution rights."

8 Q. Regarding what movie?

9 A. "Ultraman Zoffy."

10 Q. Okay. And Exhibit 171 is signed by Noboru Tsuburaya;
11 correct?

12 A. It appears to be Mr. Noboru's signature.

13 Q. And this contract, Exhibit 171, was entered into
14 between Tsuburaya Enterprises and Mr. Sompote's company
15 Chaiyo Studio; correct?

16 A. Yes.

17 MR. CHIBIB: Your Honor, I'd offer 171 into
18 evidence, please.

19 MR. QUINN: No objection.

20 THE COURT: All right. 171 will be admitted.

21 *(Exhibit 171 received in evidence.)*

22 *(The exhibit was displayed on the screen.)*

23 BY MR. CHIBIB:

24 Q. If we can look at paragraph 2, 171 is limited to --
25 restricted to the Territory of Thailand; is that correct?

1 A. Yes.

2 Q. And right above that in paragraph 2, it says that
3 Tsuburaya Enterprises is granting Mr. Sompote the rights
4 referred to herein pertain only to the exclusive
5 distribution rights of theater screening; isn't that
6 correct?

7 A. Yes, that's what's said here.

8 Q. And in paragraph 2 there's no transfer of rights that
9 grants Mr. Sompote the right to use footage from
10 "Ultraman Zoffy" to make another film, is there?

11 A. Which paragraph are you referring to?

12 Q. Paragraph 2, transfer of rights.

13 A. That's right.

14 Q. Earlier, Mr. Ooka, you provided testimony and you were
15 present during opening argument when Mr. Quinn said that
16 TPC's policy that they never -- they only use hanko on
17 Japanese language documents; correct?

18 MR. QUINN: Objection, Your Honor. I think that
19 misstates what was said.

20 THE COURT: Oh, he can answer.

21 THE WITNESS: That is the case with TPC but this
22 is Tsuburaya Enterprises that we're talking about.

23 BY MR. CHIBIB:

24 Q. Okay. Well, actually my question was about TPC. So
25 TPC only uses hanko seals on Japanese language documents;

1 right?

2 A. Yes, that's right.

3 Q. And TPC only uses signatures on English language
4 documents; correct?

5 A. In principle, yes.

6 Q. In principle. Okay.

7 Can we pull up -- not pull up -- would you mind
8 looking at Exhibit 270, please. It's in one of the white
9 binders.

10 Do you see that, sir?

11 A. Yes.

12 Q. What is Exhibit 270?

13 A. It appears to be Tsuburaya Productions letterhead.

14 Q. Okay. And what is on this document Exhibit 270? What
15 is it?

16 A. Can you translate?

17 Q. I don't want him to read what this is. I just want him
18 to tell what is it. Just what type of document is it?

19 A. Well, I can read Japanese. However, I cannot read
20 English fluently and let me read this document and I would
21 provide my testimony. Is that okay?

22 Q. Before you read it, is this a letter?

23 A. It appears to be a letter.

24 Q. Okay. And is it signed by Noboru Tsuburaya?

25 A. I think that is the case.

1 Q. And is it dated May 27, 1994?

2 A. Yes.

3 MR. CHIBIB: I'd offer 270 into evidence, Your
4 Honor.

5 THE COURT: Any objection?

6 MR. QUINN: No objection.

7 THE COURT: 270 will be admitted.

8 *(Exhibit 270 received in evidence.)*

9 BY MR. CHIBIB:

10 Q. Mr. Ooka, Exhibit 270 is in the English language;
11 correct?

12 A. Yes, it is.

13 Q. And this is a letter from TPC where there is a hanko
14 seal used on an English language document; correct?

15 A. Yes.

16 Q. So you agree that it is possible that TPC used hanko
17 seals on English language documents; correct?

18 A. I don't think I can deny that.

19 Q. Okay. And you'd also agree with me that Exhibit 270
20 has both a signature and a hanko on it, correct?

21 A. Yes, I do. However, I am seeing this document for the
22 very first time so I cannot tell whether this document is
23 authentic or not.

24 Q. So you think this one may be a forgery as well? Is
25 what you're saying?

1 A. Other than possible, since I'm seeing this document for
2 the very first time, I cannot tell you definitively.

3 Q. Is it your opinion that Exhibit 270 is a forgery?

4 A. No, that's not what I'm saying.

5 Q. Okay. Would you pull out Exhibit 2239 which is in a
6 white binder?

7 A. 2239?

8 Q. 2239.

9 (The exhibit was displayed on the screen.)

10 BY MR. CHIBIB:

11 Q. Do you see it, sir?

12 A. Yes.

13 Q. What is Exhibit 2239?

14 A. It says "Licensing Agreement for Cable Television."

15 Q. And it's for Tsuburaya Productions, TPC; correct?

16 A. Yes.

17 Q. Okay. So this is a contract of TPC's; correct?

18 A. I'm seeing this document for the first time. Can you
19 give me a moment?

20 Q. Certainly. Feel free to look at it but let me ask you
21 this question. Who signed Exhibit 2239 on page 2239-8?

22 A. It says "Masaaki Umemoto."

23 Q. And Mr. Umemoto was the managing director of TPC in
24 1996; correct?

25 A. Yes, that's what I've heard.

1 Q. And TPC was in the business of engaging in license
2 agreements with cable television companies while you worked
3 at TPC; correct?

4 A. When I was the president?

5 Q. Sure.

6 A. Yes, it did.

7 MR. CHIBIB: Your Honor, I'd offer 2239 into
8 evidence, please.

9 MR. QUINN: No objection.

10 THE COURT: All right. 2239 will be admitted.
11 *(Exhibit 2239 received in evidence.)*

12 MR. CHIBIB: Now if I could get page 2239-8 up on
13 the screen.

14 *(The exhibit was displayed on the screen.)*

15 BY MR. CHIBIB:

16 Q. Again, Mr. Ooka, this document is in the English
17 language; correct?

18 A. Yes.

19 Q. Okay. And this document has a hanko seal used on an
20 English language document by TPC; correct?

21 A. Yes.

22 Q. And it also has a handwritten signature on this
23 document; correct?

24 A. Yes.

25 Q. Okay. This is the second document that we've looked at

1 now that has both a handwritten signature and a hanko on an
2 English language document; correct?

3 A. Yes. However, the meaning of circle seal and a square
4 seal are different.

5 MR. CHIBIB: Okay.

6 Pass the witness, Your Honor.

7 THE COURT: All right.

8 Mr. Quinn.

9 MR. QUINN: Thank you, Your Honor.

10 **REDIRECT EXAMINATION**

11 BY MR. QUINN:

12 Q. You've given some testimony about the use of hanko
13 seals on Japanese language documents and signatures on
14 English language documents and whether those two are ever on
15 the same documents. Do you recall that testimony?

16 A. Yes, I remember that.

17 Q. Was it your testimony that all documents or just
18 contracts would only be -- use a hanko seal on a contract
19 that was in the Japanese language and a signature on an
20 English language contract?

21 A. (No answer to question.)

22 Q. If you could take a look at Exhibit 270. If we could
23 pull that back up.

24 *(Counsel conferred.)*

25 MR. QUINN: Oh, I'm sorry.

1 Do we have an answer to the question?

2 THE COURT: I don't think you gave him a chance to
3 do so.

4 MR. QUINN: I apologize.

5 THE WITNESS: I'm sorry. Could I have that
6 question again?

7 BY MR. QUINN:

8 Q. Let me withdraw the question.

9 First, if we could take a look at Exhibit 270, it
10 was one that counsel just showed you and he pointed out that
11 there was both a hanko seal and a signature on an English
12 language document.

13 Is this a contract?

14 A. It is a letter.

15 Q. There was an earlier exhibit -- maybe counsel can help
16 me out -- the confirmation of the exhibit, the first one you
17 did in the series.

18 If I could ask, Your Honor, if I could inquire?

19 THE COURT: If you must, yes.

20 MR. QUINN: Thank you.

21 *(Counsel conferred.)*

22 BY MR. QUINN:

23 Q. 138. Could you look at Exhibit 138, please.

24 *(Counsel conferred.)*

25 *(The exhibit was displayed on the screen.)*

1 MR. QUINN: We'll come back to that.

2 Q. Is it your testimony that English language contracts
3 would not have hanko seals?

4 A. Yes, that's what I meant.

5 Q. Is it your testimony that no English language document
6 would ever have a hanko seal?

7 THE INTERPRETER: Could I have the question again?

8 BY MR. QUINN:

9 Q. Is it your testimony that no English language document
10 of any kind would ever have a hanko seal?

11 A. No. When I was the president, there were deals with
12 Hong Kong which we needed to place signature and hanko both
13 because of the request specifically made by people in
14 Hong Kong.

15 Q. Right.

16 A. So those are exceptions.

17 Q. But could there -- would there be occasions where you'd
18 have English language documents that were not contracts
19 where you might have a hanko seal?

20 A. Although I do not remember precisely, there might have
21 been.

22 Q. And how about Japanese language? Is it your testimony
23 that Japanese language documents of any kind never had
24 signatures?

25 A. Yes, that's my recollection. In my recollection I only

1 placed hanko seal on Japanese document no matter what kind
2 of documents they were.

3 Q. Right. And if we could look at that last document,
4 Exhibit 2239.

5 (The exhibit was displayed on the screen.)

6 BY MR. QUINN:

7 Q. You made a comment there is a difference between the
8 circular hanko and the square hanko.

9 Could you please explain to the jury the
10 difference between the circular hanko and the square hanko
11 and their use.

12 A. In case of Tsuburaya Productions, circular hanko seal
13 is typically placed by a person who has authority, the
14 representative authority such as president.

15 While square hanko seal is more likely be placed
16 by somebody other than president such as department manager
17 so that means the square hanko seal doesn't represent the
18 company.

19 Q. And if we could look please at Exhibit 171, that
20 "Zoffy" contract between Mr. Sompote and TPC. And you'll
21 see in the fourth paragraph there a reference of \$8,000
22 being paid by Sompote as of the date of this agreement which
23 is March 10th, I think, 1984.

24 I can't see the -- March -- yes, the 10th of
25 March, 1984; and you'll see in the reference here that

1 Mr. Sompote is paying Tsuburaya Productions some \$8,000 in
2 order to use this "Zoffy Ultraman" film.

3 Do you see that there?

4 MR. CHIBIB: Objection, Your Honor. Foundation.
5 Misstates the document.

6 THE COURT: Can we rephrase the question, Counsel?

7 THE INTERPRETER: Your Honor, I haven't translated
8 the question.

9 THE COURT: All right.

10 (Interpreter translating the question.)

11 MR. QUINN: I'm thinking I should rephrase the
12 question, Your Honor.

13 THE COURT: That probably would be a good idea.

14 BY MR. QUINN:

15 Q. If you can look at the Japanese language version of the
16 document which I think are on the pages that follow.

17 (The exhibit was displayed on the screen.)

18 THE WITNESS: What's the number of the exhibit?

19 BY MR. QUINN:

20 Q. I'm sorry. It's the same exhibit, Exhibit 171, and
21 behind the English language there should be a Japanese
22 language version.

23 A. Yes.

24 Q. And can you see in there a term that provides for
25 payment by Sompote to Tsuburaya Productions?

1 A. Yes.

2 Q. So is it your understanding that Mr. Sompote, as of
3 March of 1984, was paying \$8,000 to Tsuburaya Productions in
4 order to be able to use the "Zoffy Ultraman" film?

5 MR. CHIBIB: Objection, Your Honor. Misstates the
6 document.

7 THE COURT: Overruled.

8 THE WITNESS: Yes, that's my understanding.

9 BY MR. QUINN:

10 Q. Can you think of any reason why Mr. Sompote would be
11 paying \$8,000 to Tsuburaya productions in 1984 to use
12 Ultraman material if he already owned Ultraman?

13 A. I don't know.

14 MR. QUINN: And then if we could look at our
15 demonstrative slide 10, the global -- the map of the world
16 with different locations.

17 (The exhibit was displayed on the screen.)

18 BY MR. QUINN:

19 Q. Does this map show all of the locations and all of the
20 Ultraman films and television shows that had been licensed
21 around the world during that time period?

22 A. I don't think these are them all. They were listed
23 here as examples and there isn't enough space to list all of
24 them.

25 MR. QUINN: And then I'd like you to look at one

1 of the slides that counsel showed you that showed losses;
2 those red bars.

3 I think we talked about that, Ken. If we have, if
4 we can pull that up.

5 (The exhibit was displayed on the screen.)

6 BY MR. QUINN:

7 Q. Now, does this indicate that Tsuburaya's losses
8 actually decreased between 1974 and 1976?

9 A. From 1973?

10 Q. If you look at the two red bars here.

11 THE INTERPRETER: The Interpreter mistranslated.

12 MR. QUINN: Okay. Thank you.

13 THE WITNESS: Yes.

14 BY MR. QUINN:

15 Q. So would it be true, does this indicate that things
16 were actually getting better between April of 1974 and
17 February of 1976?

18 A. Yes. The amount of loss decreased.

19 Q. All right. And the 1976 document is dated in March of
20 1976; correct? If you have to, look at Exhibit 4A.

21 A. It must be dated March 4th of 1976.

22 Q. So things were getting better before the agreement was
23 reached with Mr. Sompote?

24 A. I think that's natural to think that way.

25 Q. Well, at least is that what this indicates?

1 A. Yes.

2 Q. Would it make -- from your standpoint, there were some
3 difficult times where obviously the company was losing some
4 money.

5 But was there ever a point where it would have
6 made sense to sell, assign, transfer, or otherwise dispose
7 of what was far and away the most valuable assets that the
8 company had? The Ultraman brand?

9 MR. CHIBIB: Objection. Leading.

10 THE COURT: Overruled.

11 THE WITNESS: At no point. At no point at all.
12 In company, total who own 60 percent of Tsuburaya share,
13 would never allow that to happen. In the letter, the
14 document that does not have any specified amount for
15 compensation has no meaning.

16 Tsuburaya would never sell its important assets
17 for no compensation. It did not do that and Toho would not
18 allow that and letter does not have any amount specified.
19 It is meaningless.

20 Q. Well, would it have made sense -- I mean, counsel has
21 indicated that the company was struggling. Now, it's been
22 your testimony that the company was struggling; correct?

23 A. I think it was struggling.

24 Q. Would it have made sense, especially under
25 circumstances where things were getting better, then in

1 March of 1976 to have transferred or conveyed or gotten rid
2 of the Ultraman brand?

3 A. To the contrary.

4 MR. QUINN: Nothing further.

5 THE COURT: Any further examination, Mr. Chibib?

6 MR. CHIBIB: Just a couple of questions, Your
7 Honor.

8 **RE CROSS-EXAMINATION**

9 BY MR. CHIBIB:

10 Q. Mr. Ooka, would you please open back up Exhibit 1000,
11 please.

12 A. *(No response.)*

13 MR. CHIBIB: Mr. Bales, if I could get page 1000-5
14 put up on the screen, please.

15 *(The exhibit was displayed on the screen.)*

16 BY MR. CHIBIB:

17 Q. Specifically, Mr. Ooka, if you could turn to page
18 1000-15 for the Japanese version?

19 A. Yes.

20 Q. Okay. This is the income statement from April of 1974
21 to March of 1975; correct?

22 A. Yes.

23 Q. Okay. In the bottom row of the top table says:
24 Undisposed loss for the current term, 107,000,000 plus yen;
25 correct?

1 A. Yes.

2 Q. And if you advanced two pages for you, Mr. Ooka,
3 1000-17; and, Mr. Bales, 1000-7, please.

4 (The exhibit was displayed on the screen.)

5 THE WITNESS: Yes.

6 BY MR. CHIBIB:

7 Q. This is the income statement from April 1, 1975, to
8 February 29, 1976; right?

9 A. Yes.

10 Q. And again the bottom row of that table says: The
11 undisposed loss for this term is 158 million and change yen;
12 correct?

13 A. Well, this is a carried-over loss.

14 Q. Correct.

15 A. So the actual loss for this particular period is
16 written above that, 50 million. That's what -- that's my
17 understanding.

18 Q. Correct. And the cumulative loss is 158 million yen;
19 correct?

20 A. Yes, that's right.

21 MR. CHIBIB: Okay. Back to Exhibit 171 in your
22 binder, please. If I could have paragraphs 2 through 4
23 opened up.

24 (The exhibit was displayed on the screen.)

25

1 BY MR. CHIBIB:

2 Q. Mr. Ooka, you just testified that Mr. Sompote paid
3 \$8,000 under this contract for the rights to use --

4 THE INTERPRETER: Can you pause?

5 MR. CHIBIB: Yes.

6 THE WITNESS: Yes.

7 BY MR. CHIBIB:

8 Q. Okay. You just testified that Mr. Sompote paid \$8,000
9 to TPC for the rights to use the footage from
10 "Ultraman Zoffy." Do you remember just doing that?

11 A. Yes.

12 Q. But in paragraph 2 it says expressly the rights are for
13 distribution rights of theater screening; correct?

14 A. Yes.

15 Q. And it also says that same thing in paragraph 4. As
16 the fee for distribution rights of the motion picture, the
17 payment of \$8,000 is made; correct?

18 A. Yes.

19 Q. So isn't it true that Mr. Sompote paid \$8,000 for the
20 distribution rights, not the rights to use the footage?

21 A. Well, I don't think it's completely true. I don't
22 think this compensation is for only distribution rights.

23 Q. Does it say anywhere in paragraphs 2 or paragraph 4
24 that Mr. Sompote has the right to use film footage from
25 "Ultraman Zoffy"?

1 A. No, it doesn't say that.

2 MR. CHIBIB: No further questions, Your Honor.

3 THE COURT: Mr. Quinn.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. QUINN:

6 Q. Distribution rights include the right to show the film;
7 is that correct?

8 A. Yes, it does.

9 Q. So let me ask again the question: If Mr. Sompote
10 already owned Ultraman as of March 1984, can you think of
11 any reason why he would be paying Tsuburaya \$8,000 for
12 distribution rights for "Ultraman Zoffy"?

13 A. No, I can't think of any.

14 MR. QUINN: Thank you.

15 THE COURT: Anything further of this witness?

16 MR. CHIBIB: No, Your Honor.

17 THE COURT: All right. Sir, you may step down.
18 Thank you to Madam Interpreter.

19 All right. It's about 3:00 o'clock now so why
20 don't we take a ten-minute recess.

21 Please do not form any opinion about the case. Do
22 not talk to anyone about the case or allow anyone to talk to
23 you about the case and do not conduct any research of any
24 kind on any subject matter connected with this trial.

25 So we'll see you at five after 3:00.

1 THE CLERK: All rise.

2 *(The jurors exited the courtroom.)*

3 *(The following was held outside the jury's presence:)*

4 THE CLERK: Please be seated.

5 THE COURT: All right. So we'll take ten minutes
6 and then we'll resume. The next witness is?

7 MR. QUINN: Next witness is Mr. Kazuo Tsuburaya.

8 THE COURT: All right. And he's available;
9 correct?

10 MR. QUINN: He's right here.

11 THE COURT: All right. So we'll get started with
12 him. All right. Thank you.

13 THE CLERK: All rise.

14 This court is in recess.

15 *(Recess.)*

16 THE CLERK: All rise.

17 *(The jurors entered the courtroom.)*

18 THE CLERK: You may be seated.

19 *(Pause in the proceedings.)*

20 THE CLERK: All rise.

21 Please be seated. Come to order. This court is
22 again in session.

23 THE COURT: All right. Call your next witness,
24 Counsel.

25 MR. QUINN: Thank you, Your Honor.

1 Tsuburaya Productions calls Kazuo Tsuburaya.

2 THE COURT: All right, sir. You may step forward.

3 **KAZUO TSUBURAYA, PLAINTIFF'S WITNESS, SWORN**

4 THE CLERK: Please raise your right hand.

5 Do you solemnly swear that the testimony you shall
6 give in the cause now before this Court shall be the truth,
7 the whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 THE CLERK: Please be seated and please state and
10 spell your full name for the record.

11 THE WITNESS: It's Kazuo Tsuburaya.

12 T-s-u-b-u-r-a-y-a, K-a-z-u-o.

13 THE COURT: All right.

14 You may proceed.

15 MR. QUINN: Thank you, Your Honor.

16 **DIRECT EXAMINATION**

17 BY MR. QUINN:

18 Q. Where do you reside, sir?

19 A. In Setagaya Ward in Tokyo.

20 Q. Are you the grandson of Eiji Tsuburaya, the founder of
21 Tsuburaya Productions?

22 A. Yes.

23 Q. Are you the son of Noboru Tsuburaya?

24 A. Yes.

25 Q. When you were a child, was Noboru Tsuburaya the

1 president of Tsuburaya Productions?

2 A. Yes.

3 Q. What do you recall about your father's work at the
4 company when you were a child?

5 A. Well, I remember him being in the character business.

6 Q. And what do you mean by "the character business"?

7 A. Well, he was making TV series and movies using the
8 characters like Ultraman Tsuburaya created and also using
9 those characters out of those works.

10 It was -- he was engaged in licensing business for
11 merchandise such as toys and stationery and books.

12 Q. As a child was it fun for you that your father was
13 involved in this line of work?

14 A. Yes, of course.

15 Q. And what was Noboru like as a father?

16 A. I think he was a very fun -- funny father giving us
17 children a dream.

18 Q. When you started working at the company, was your
19 father the president?

20 A. Yes.

21 Q. And what was he like as a leader of the company?

22 A. He was a man with ideas and loved to take on new things
23 and employees loved him.

24 Q. When you went to work, started to work at the company,
25 what was your first position?

1 A. I was a sales associate.

2 Q. And were you involved in the licensing activities at
3 the company?

4 A. I did this. I did something like that as well.

5 Q. And did that include at some point licensing Ultraman
6 works both within Japan and outside Japan?

7 A. Yes.

8 Q. Did the company have employees who were focused on
9 licensing Ultraman works outside Japan?

10 A. Yes, there were.

11 Q. And do you recall who was in charge of that department,
12 the licensing of Ultraman outside of Japan?

13 A. Within Tsuburaya Pro, it was Mr. Ugawa in the
14 International Department. In addition there was Mr. Joe
15 Taritero of Ultracom.

16 Q. What period of time are we talking when Mr. Ugawa was
17 in charge of that department? Was it the '80s, '90s? What
18 time period?

19 A. I think it was from the late '80s to '90s.

20 Q. In what countries in that timeframe were Ultraman works
21 licensed outside of Japan?

22 A. Well, I cannot say specific country but I think
23 licensing activity took place in places like Middle East,
24 Europe, China, and Central and South America as well.

25 Q. Did the company -- in addition to the licensing outside

1 of Japan, did the company do anything to market or promote
2 its Ultraman products outside of Japan in addition to the
3 licensing activity?

4 A. Yes.

5 Q. And can you give us some examples of what some of those
6 things are that the company did in the 1980s and 1990s to
7 promote Ultraman outside of Japan?

8 A. For example, we had booths in movie expo or movie
9 festivals like MipCon in Cannes and movie festival; and we
10 would have a booth to display our characters and posters for
11 marketing activities.

12 Q. Would it be fair to say that TPC didn't try to keep it
13 a secret that it was marketing Ultraman outside of Japan in
14 the 1980s and 1990s?

15 A. No, it did not keep it secret.

16 Q. At some point did your father form a separate company
17 to focus on distributing Ultraman works outside of Japan?

18 A. Yes, he did.

19 Q. What was the name of that company?

20 A. Ultracom.

21 Q. And when was it formed?

22 A. I believe it was sometime in the late 1980s.

23 Q. In what countries was Ultracom authorized to distribute
24 Ultraman works?

25 A. Everywhere in the world other than Japan.

1 Q. At any point in the 1980s or the 1990s, did it come to
2 your attention that anyone at all had objected that
3 Tsuburaya did not have the rights to distribute or promote
4 Ultraman outside of Japan?

5 A. No.

6 Q. Now, you know who Mr. Sompote is, don't you?

7 A. Yes.

8 Q. Prior to the time your father passed away, did
9 Mr. Sompote ever object that: Look. I, Mr. Sompote, have
10 the rights to Ultraman outside of Japan. Tsuburaya
11 Productions does not have that right.

12 A. No, he did not.

13 Q. When did your father Noboru pass away?

14 A. In June of 1995.

15 Q. And when your father passed away, did you become
16 president of the company?

17 A. Yes.

18 Q. How old were you at the time that you became president
19 of Tsuburaya Productions?

20 A. 34 years old.

21 Q. Did you feel ready to take on the responsibility of
22 being president of Tsuburaya Productions?

23 A. Since my father passed away all of a sudden, I was not
24 prepared.

25 Q. You told us you had known who Mr. Sompote was. When

1 did you first recall knowing of Mr. Sompote?

2 A. It was when I was probably around sixth grade in
3 elementary school. So it was around 1973, I think.

4 Q. What was it that you recall about meeting Mr. Sompote
5 then?

6 A. I think that he was a friend of my father and I also
7 recall him bringing his family.

8 Q. You said "bringing his family." Did he bring his
9 family to your home?

10 A. In my recollection at that time they came to stay at my
11 house.

12 Q. And then after that, were there times in the future --
13 over the years, were there times where you saw Mr. Sompote?

14 A. Yes.

15 Q. After your father passed away, was there an occasion
16 where Mr. Sompote came to Tokyo to Tsuburaya Production
17 company's offices?

18 A. Yes, he did.

19 Q. And did he come to see you?

20 A. In my recollection he wanted to see me. However, my
21 schedule didn't work out and I was not available so I had
22 Ugawa see him.

23 Q. But did there come a point where you actually spoke
24 with Mr. Sompote?

25 A. Sir, I didn't understand the question.

1 Q. Let me withdraw the question.

2 Did there come a point you actually had a
3 face-to-face meeting with Mr. Sompote after your father had
4 died?

5 A. Yes.

6 Q. And was this in 1996?

7 A. I think so.

8 Q. And at that time did he have a piece of paper with him?

9 A. Well, he did.

10 Q. And was that what's been referred to as the
11 1976 document? Did he have that with him when you saw him
12 in 1996?

13 A. No, he didn't have that.

14 Q. Did he ever tell you that he had this 1976 document and
15 described it to you?

16 A. Yes.

17 Q. What did he tell you about this 1976 document?

18 A. Well, rather than to myself, he told Ugawa that he had
19 something like that and I was told at a later time.

20 Q. All right. Did you know if anyone at Tsuburaya
21 Productions had seen this 1976 document before Mr. Sompote
22 brought it?

23 A. Before he brought that up?

24 Q. Yes.

25 A. No, I don't think there was any.

1 Q. Did Tsuburaya Productions have a copy of this document
2 in its files?

3 A. No, it does not.

4 Q. Did you at any point ask him if he would please provide
5 a copy of the document?

6 A. I asked.

7 Q. Did you ever receive it from him, a copy of the
8 document?

9 A. I have a sense that I did not. I did not receive it.

10 Q. Had you ever heard your father speak about any
11 financial transactions that he had had with Mr. Sompote?

12 A. No, I have not.

13 Q. Have you ever heard him speak about any financial
14 assistance that Mr. Sompote had provided to the company?

15 A. I have not.

16 Q. Had he ever mentioned any forgiveness of debt, that
17 Mr. Sompote had forgiven debt that the company owed to him?

18 A. No, I have not.

19 Q. If I could just -- I skipped over something. If I
20 could just back up for a second.

21 Before your father died, do you recall an occasion
22 while you were working at the company where you saw
23 Mr. Sompote?

24 A. Can I have that question again.

25 Q. Yeah. Before your father passed away, do you recall

1 while you were working at the company an occasion where you
2 saw Mr. Sompote?

3 A. Not at the company.

4 Q. Not at the company. But at some other location, do you
5 recall seeing Mr. Sompote before your father died at some
6 other location?

7 A. I think it was in 1993. It was the time when I was
8 making "Ultraman Power" and that was being made in L.A.

9 When I returned to Narita on the airplane and I
10 was walking down on the platform of Keisei Skyliner,
11 Mr. Sompote popped in.

12 Q. And when you saw him on that occasion -- I'm sorry.

13 A. At that time I told Mr. Sompote that I was making an
14 Ultraman series and I just returned from Los Angeles to
15 Narita.

16 Then Mr. Sompote told me that he was selling
17 mineral water, bottled water, and then he showed me a cutout
18 of the products he was selling.

19 So that's about it, about our conversation.

20 And then I returned to my home in Tokyo. Then I
21 told my father that I met Mr. Sompote. And then in response
22 he said: Is that right? How was he? Is he doing all
23 right? What is he doing now?

24 So then I told him that it seemed that he came to
25 Tokyo to sell mineral water.

1 And he said: Oh, is that right? And that was the
2 end of the conversation.

3 Q. So when you saw him at -- is this a train station? A
4 Narita train station? Is that what you said?

5 A. Yes.

6 Q. And you told him that you had been doing work promoting
7 Ultraman in Los Angeles?

8 A. Not promoting but making.

9 Q. Making Ultraman works in L.A.?

10 A. Yeah. In other words, shooting work, new movie.

11 Q. You were actually shooting the movie in Los Angeles?
12 You mean Ultraman has been to L.A. already?

13 A. Yes. That's where we were shooting.

14 Q. When you told this to Mr. Sompote, did he voice any
15 objections to the fact that Tsuburaya Productions was doing
16 work on Ultraman in other countries outside of Japan?

17 A. He did not at all; and in my recollection it appeared
18 he was more excited about mineral water.

19 Q. All right. Let's go back to 1996 when Mr. Sompote
20 comes to Tsuburaya Production company's offices with a piece
21 of paper. When he came, did he have a -- what did he say?
22 Did he have a request?

23 Let me ask that question. Did he have a request?

24 A. His request was to allow him to handle as an agent in
25 five countries including Thailand and also he requested to

1 issue a letter to restore his clientele; and since my father
2 and myself had been a friend, I personally wanted to avoid a
3 conflict.

4 And also since Tsuburaya Productions was not very
5 strong in those areas in Thailand, I thought it was
6 something that might be good for the company.

7 Q. Did Mr. Sompote say anything about what rights he
8 thought the 1976 document gave him?

9 A. I think that was the document that shows that he had
10 rights to character that are very important to Tsuburaya
11 Pro.

12 Q. Did he say anything about what rights he had, if
13 anything, outside of Japan?

14 THE INTERPRETER: Can I have that question again?

15 MR. QUINN: Yeah.

16 Q. Did Mr. Sompote say anything about what rights he
17 thought the document gave him outside Japan with respect to
18 Ultraman?

19 A. Things along the line that he also owns copyrights.

20 Q. In Ultraman?

21 A. We're talking about the 1976 document?

22 Q. Yes. I'm asking about the 1976 document and what he
23 told you he thought what rights it gave him, what he said
24 about that.

25 A. I think he said something along the line that he own

1 all of the copyrights.

2 Q. Now, in Japanese culture, was there an obligation for
3 you -- is there an obligation to show a certain amount of
4 respect for a longtime friend of your father?

5 A. Yes.

6 Q. Were you surprised by the 1976 document and the things
7 that he said that it gave him?

8 A. Of course I was surprised. It couldn't be possible.

9 Q. What was your reaction to his proposal that he be given
10 rights to -- certain rights to Ultraman in Thailand and
11 certain other countries?

12 A. I thought it can't be possible; and the character in
13 series that are very important to Tsuburaya Pro, it was
14 unthinkable that those were given to the hand of other
15 people; and Noboru, my father, the president of Tsuburaya
16 Productions, would never give away or hand over such
17 important contents to other people.

18 Q. You told us that he had a proposal that he be given
19 distribution rights in Thailand and certain nearby
20 countries.

21 A. That proposal came about when Mr. Pete and Ugawa were
22 discussing in connection with the 1976 document, the letter
23 that we issued.

24 Q. Right. What was your reaction to the idea that
25 Mr. Sompote would be made an Ultraman distributor in

1 Thailand and certain nearby countries? What was your
2 reaction to that idea?

3 A. I thought it would be a good idea if Mr. Sompote and
4 his associates could take initiative in those area for
5 Ultraman's future because Tsuburaya Pro was not doing much
6 in those areas.

7 Q. Did you believe that Mr. Sompote, who lived in
8 Thailand, might be a good distributor for Ultraman in
9 Thailand and those countries as he proposed?

10 A. Yes.

11 Q. And, ultimately, was an agreement reached where
12 Mr. Sompote became the distributor in Thailand and those
13 other countries nearby?

14 A. Well, that was my intention. That's what I thought was
15 agreed. And however, as soon as we gave him a letter
16 including things that he requested us to include in that
17 letter, he started saying the 1976 document was valid.

18 Until up to that point what he said to us was that
19 as long as we issued the 1996 letter, he would forget about
20 the 1976 document.

21 Since my father and Mr. Sompote had been friends,
22 I wanted to avoid conflict, let alone litigation; and I
23 wrote and issued the letter to restore his reputation as
24 requested by Mr. Pete in a discussion between Mr. Pete and
25 Ugawa.

1 Q. Let's talk about that letter. You said that
2 Mr. Sompote had said his reputation had been harmed in
3 Thailand?

4 A. I was asked to include the language to restore his
5 honor and that's what I did.

6 Q. Right. And did he say that he needed this letter to
7 restore his honor in Thailand in order to be able to
8 distribute Ultraman effectively in Thailand?

9 A. I think he did that as well.

10 Q. Right. You referred to the 1996 letter. This is a
11 letter -- is this the letter that you signed at his request?

12 A. Yes.

13 MR. QUINN: And I believe this is Exhibit 144; and
14 I don't think there's any objection, Your Honor. We'd offer
15 that and request it be displayed on the screen.

16 THE COURT: Any objection to 144?

17 MR. CHIBIB: No, Your Honor.

18 THE COURT: It may be admitted and published.

19 *(Exhibit 144 received in evidence.)*

20 *(The exhibit was displayed on the screen.)*

21 BY MR. QUINN:

22 Q. It's on the screen there.

23 Is this the letter that you wrote at Mr. Sompote's
24 request in order to restore his honor in Thailand?

25 A. Can I see the whole thing?

1 Q. Is this the letter -- the words in this letter, were
2 some of the words provided by Mr. Sompote or his son Pete?

3 A. Yes.

4 Q. And were there words in this letter that you actually
5 did not think were accurate?

6 A. Yes.

7 Q. Then why did you sign your name to the letter if you
8 thought there were words in it that were not accurate?

9 A. Well, because there was a request from Mr. Sompote to
10 allow him to be a distributor in five countries including
11 Thailand and the request to honor -- the request to restore
12 his honor as well as my own thought that I would like to
13 avoid conflict and litigation because my father and
14 Mr. Sompote were friends.

15 Even though it was not my true intention, I did
16 not really want to do this. I wrote and signed this letter
17 because I thought at the time would be a good idea to work
18 with Mr. Sompote for Ultraman's future and I thought it
19 would work out.

20 Q. Before signing this letter and giving it to
21 Mr. Sompote, had you or anyone else at Tsuburaya Productions
22 had an opportunity to do an investigation as to whether or
23 not the 1976 document was valid?

24 A. No.

25 Q. And at this time did you think it was important to

1 maintain peace with your father's old friend?

2 A. I thought so.

3 Q. And then you said -- and was this, after you signed
4 this letter, was a copy of this provided to Mr. Sompote?

5 A. Can I have that question again?

6 Q. Yeah. Did you sign this letter and provide it to
7 Mr. Sompote?

8 A. Yes.

9 Q. And you said earlier that after you provided the letter
10 Mr. Sompote changed what he was saying in some way or
11 changed his position. You said that earlier.

12 A. Yes.

13 Q. And what was that change?

14 A. He started saying that the 1976 document was valid,
15 therefore, he has rights to characters listed there.

16 Q. And did he start saying that he had the rights to the
17 Ultraman characters all around the world outside Japan?

18 A. Yes, he did.

19 Q. Including new characters and new works?

20 A. I think that was the case.

21 Q. Right. You mentioned a company that your father had
22 set up, Ultracom, to do licensing outside of Japan. At some
23 point was Ultracom closed?

24 A. Yes, it did.

25 Q. When was that?

1 A. I think it was in 1996.

2 Q. Was that shortly after your father passed away?

3 A. My father passed away in 1995 so about a year later.

4 Q. Right. And who made the decision to close Ultracom,
5 this company that was responsible for licensing outside
6 Japan?

7 A. Mine.

8 Q. Why did you decide to close Ultracom?

9 A. Well, the company's performance was not very good and
10 rent and salaries to employees were also high and then also
11 I always had an idea that that was something that could be
12 handled by the international department of Tsuburaya Pro so
13 I decided to close that company.

14 Q. Did you, in fact, do that; start to have the
15 international licensing be done by Tsuburaya itself, its own
16 international licensing department?

17 A. Yes, it did.

18 Q. Did the closure of Ultracom have anything at all to do
19 with the fact that Mr. Sompote had come, shown this
20 1976 document and claimed that he had some rights under it?

21 A. No. I had an idea of closing the company even after my
22 father passed away -- even before he passed away. So the
23 document that we've been talking about had nothing to do
24 with that and I always had that idea.

25 Q. Do you presently have any employment relationship with

1 TPC?

2 A. I entered into an advisory contract.

3 Q. And under that contract, what do you do?

4 A. Well, I myself left Tsuburaya Pro already. So under
5 that contract if there are any opportunity for me to share
6 my experience while I was working at the company which might
7 help the company to create new business and such.

8 And I also oversee examination called Ultraman
9 test in which people can take tests to be certified for
10 level A, level B, and such.

11 And also in connection with my grandfather
12 Eiji Tsuburaya, there could be some events or documentary
13 and, if there are such opportunities, I would participate to
14 provide advice.

15 Q. So from time to time you are still called on by the
16 company to provide services?

17 A. Yes.

18 Q. Has this, the fact that you have this contract --

19 MR. QUINN: And I think it's Exhibit 208. I'd
20 offer that into evidence. I don't think there's any
21 objection, Your Honor.

22 THE COURT: Any objection to 208?

23 MR. CHIBIB: No, Your Honor.

24 THE COURT: It will be admitted.

25 *(Exhibit 208 received in evidence.)*

1 MR. QUINN: If we could put it up on the screen.
2 I don't know if we have an English language version.

3 Oh, it's in the back. If we flip forward behind
4 this, we've got an English --

5 We're coming to the end here.

6 THE WITNESS: 208?

7 (The exhibit was displayed on the screen.)

8 BY MR. QUINN:

9 Q. Yeah. It's two-zero-eight. It's on the screen there
10 also.

11 Does the fact that you have this advisory
12 agreement still with the company, has that in any way
13 affected the testimony that you've given here today?

14 A. Not at all. I am only speaking what I know truthfully.

15 Q. And can you tell us whether or not it's true -- let me
16 ask it this way.

17 It's true, isn't it, that you have given -- you
18 have testified before concerning this dispute?

19 A. Yes.

20 Q. All right. And is it true that you've given this same
21 testimony before, before you ever entered into this
22 agreement?

23 A. Yes.

24 (Counsel conferred.)

25 MR. QUINN: Nothing further, Your Honor.

1 THE COURT: All right.

2 Cross-examination.

3 **CROSS-EXAMINATION**

4 BY MR. CHIBIB:

5 Q. Good afternoon, Mr. Kazuo.

6 A. Good afternoon.

7 Q. You've been sitting here at counsel table the entire
8 time; correct?

9 A. Yes.

10 Q. And you were there when TPC's counsel gave their
11 opening statement and talked about TPC being a family
12 business; right?

13 A. Yes.

14 Q. And it used to be a family business, didn't it?

15 A. Well, it is certainly a company created by
16 Eiji Tsuburaya and Tsuburaya family members have been
17 involved in the business.

18 However, I think this is the company that the
19 people who are attracted to Eiji worked hard to establish.

20 Q. Great.

21 Isn't it true that in 2007 that Tsuburaya
22 Productions got bought out by a large advertising agency?

23 A. The term "bought out" might not be a good expression.
24 But I made that request to that company to take care of
25 Tsuburaya Pro so that we can nurture the business Ultraman

1 in the future.

2 Q. Mr. Kazuo, I'm trying to ask you a simple yes-or-no
3 question. Isn't it true in 2007, TYO, a very large
4 advertising agency, bought the shares of Tsuburaya
5 Productions?

6 A. They did.

7 Q. Okay. And, again, isn't it true that in 2010 Fields
8 Corporation bought the shares for Tsuburaya Productions from
9 TYO; correct?

10 A. Yes, that's true.

11 Q. And Fields Corporation makes gambling slot machines;
12 correct?

13 A. Gambling might not sound good. I think it is an
14 entertainment company.

15 Q. And they make slot machines; correct?

16 A. I don't think it manufactures them although I'm not
17 sure about details.

18 Q. Okay. Mr. Kazuo, your father wrote a book; correct?

19 A. Yes. Well, wrote a book. He wrote a book in the 1970s
20 under his own name; and in the '80s and '90s -- How do I
21 describe that? -- he had interviews and he talked and those
22 became books.

23 Q. Okay. And so he did that multiple times then; correct?

24 A. I remember those two books.

25 Q. Okay. Would you mind turning in your binder to

1 Exhibit 139, please.

2 A. Yes.

3 Q. This is one of your father's books; correct?

4 A. Yes, but I have never read this.

5 Q. Well, that was my next question. You've never read
6 your father's autobiography, Exhibit 139?

7 A. No, I have not.

8 Q. Mr. Kazuo, would you please -- you know Mr. Sompote, I
9 think you testified earlier.

10 A. Yes, I do know him.

11 Q. And do you know that he studied under your grandfather
12 Mr. Eiji Tsuburaya?

13 A. Although I do not have direct knowledge, there were
14 times that I heard from people around me something like
15 that.

16 Q. Okay. Do you mind pulling out Exhibit 1027 and I
17 believe it's going to be in a black binder.

18 A. Yes.

19 Q. You've seen Exhibit 1027 before?

20 A. Not this photograph.

21 Q. Okay. What is this?

22 A. This is a photograph with the Toho character Godzilla
23 and King Kong and Eiji Tsuburaya on it.

24 Q. And who else is there in the middle?

25 A. I think it is Mr. Sompote when he was young but I'm not

1 familiar with Mr. Sompote around this time.

2 MR. CHIBIB: Your Honor, we would offer 1027 in
3 evidence, please.

4 MR. QUINN: No objection, Your Honor.

5 THE COURT: All right. 1027 will be admitted.

6 *(Exhibit 1027 received in evidence.)*

7 *(The exhibit was displayed on the screen.)*

8 BY MR. CHIBIB:

9 Q. Mr. Kazuo, would you mind now turning to Exhibit 1055?
10 And, again, I think that's in the black binder.

11 A. Yes, please.

12 Q. Have you seen Exhibit 1055 before?

13 A. Yes, I have seen those pictures before.

14 Q. And who was in the photo on the bottom left?

15 A. I think this is Mr. Sompote and Eiji.

16 MR. CHIBIB: Your Honor, we offer Exhibit 1055 in
17 evidence.

18 MR. QUINN: No objection.

19 THE COURT: All right. 1055 will be admitted.

20 *(Exhibit 1055 received in evidence.)*

21 *(The exhibit was displayed on the screen.)*

22 BY MR. CHIBIB:

23 Q. Exhibit 1055, on the bottom left, that photo was taken
24 at your grandfather's house; right?

25 A. Yes.

1 Q. Mr. Sompote was also close with your father Mr. Noboru;
2 correct?

3 A. I'm not sure how it was around this time.

4 Q. Around what time?

5 A. Well, Eiji passed away in 1970 and this picture was
6 taken prior to that; and around that time I don't know what
7 kind of relationship my father and Mr. Sompote had because I
8 was a young child.

9 Q. Okay, yeah. Thank you.

10 There was a time that Mr. Sompote was close with
11 your father Mr. Noboru; correct?

12 A. Yes, I think there was.

13 Q. Okay. And I think you testified earlier that
14 Mr. Sompote and maybe his family had stayed at your house --
15 Mr. Noboru's house before; correct?

16 A. Yes.

17 Q. And your father would travel to Thailand during his
18 business for TPC?

19 A. That I don't know.

20 Q. Okay. Would you please look at Exhibit 1056.

21 A. Yes.

22 Q. What is Exhibit 1056?

23 A. On this, there is my father in the middle and I don't
24 know the person on the left. But on the right I think this
25 is Mr. Sompote when he was young.

1 MR. CHIBIB: Your Honor, we would offer 1056 in
2 evidence.

3 THE COURT: Any objection?

4 MR. QUINN: No, no objection, Your Honor.

5 THE COURT: 1056 will be admitted.

6 *(Exhibit 1056 received in evidence.)*

7 *(The exhibit was displayed on the screen.)*

8 BY MR. CHIBIB:

9 Q. So your father is in the middle, Mr. Sompote is on the
10 right; correct?

11 A. Yes.

12 Q. Would you mind looking at Exhibit 1029, sir.

13 A. Yes, please.

14 Q. And what is this? What is Exhibit 1029?

15 A. This has Ultraman heroes, Mr. Sompote, his wife, and
16 Mr. Pete when he was a young boy.

17 Q. And this picture on Exhibit 1029 is in Thailand;
18 correct?

19 A. That I wouldn't know. I don't know where this was
20 taken.

21 Q. Are you looking at 1029 or 1028?

22 A. Oh, 1029. I'm sorry. 1029.

23 Q. Probably the second page is a clearer image.

24 A. Yes.

25 Q. Okay. And can you tell me what this is?

1 A. This has "Hanuman" in Thailand and behind it there were
2 Ultraman. Then my father is in the picture raising his hand
3 holding Mr. Pete, and Mr. Sompote's wife is next to my
4 father.

5 MR. CHIBIB: Your Honor, we would offer 1029 in
6 evidence.

7 MR. QUINN: No objection.

8 THE COURT: All right. 1029 will be admitted.

9 *(Exhibit 1029 received in evidence.)*

10 *(The exhibit was displayed on the screen.)*

11 BY MR. CHIBIB:

12 Q. You talked a little bit about Ultracom a little bit,
13 Mr. Kazuo. Do you remember that?

14 A. Yes.

15 Q. And Ultracom was TPC's agent for distributing Ultraman
16 works outside of Japan; correct?

17 A. Yes.

18 Q. And they were based here in Los Angeles; right?

19 A. I think so, yes, it is.

20 Q. And Ultracom essentially had the foreign distribution
21 rights that Mr. Sompote was claiming he had; isn't that
22 right?

23 A. Mr. Sompote did not own the rights. Tsuburaya Pro did.
24 And using Tsuburaya Pro's rights, they were acting overseas.

25 Q. That wasn't my question. My question is Ultracom had

1 overseas distribution rights from TPC, the same overseas
2 distribution rights Mr. Sompote was claiming he had under
3 the 1976 agreement; correct?

4 A. We did not think that we had given such rights to
5 Mr. Sompote at that point in time. We thought that those
6 rights were Tsuburaya's.

7 Q. Okay. We don't seem to be communicating very well.
8 I'm not asking you if Mr. Sompote had the rights. I'm
9 asking you if Mr. Sompote thought he had the rights under
10 the 1976 agreement that were the same rights that Ultracom
11 had.

12 A. So you're asking whether those over us?

13 Q. Yes.

14 A. Yes. I think that in part that was the case. But I'm
15 repeating myself. Sorry. But the rights belonged to
16 Tsuburaya Pro and we had Ultracom to do that for us.

17 Q. Mr. Kazuo, would you please pull out Exhibit 144.

18 MR. CHIBIB: If I could get that up on the screen,
19 please.

20 (The exhibit was displayed on the screen.)

21 THE WITNESS: What is the exhibit number?

22 BY MR. CHIBIB:

23 Q. 144, please.

24 A. Yes.

25 Q. This is your letter that you wrote on behalf of

1 Tsuburaya Productions; correct?

2 A. Well, this is a document that came about in
3 consultation between Mr. Pete and Ugawa with respect to what
4 goes into the letter.

5 Q. Mr. Kazuo, I'm asking you a very simple yes-no
6 question. This is your letter that you wrote on behalf of
7 TPC; correct?

8 MR. CHIBIB: Objection, Your Honor.
9 Nonresponsive.

10 THE COURT: I haven't heard an answer yet,
11 Counsel.

12 MR. QUINN: I don't know how he would know, Your
13 Honor, unless he speaks Japanese.

14 THE COURT: I wouldn't know either.

15 THE WITNESS: Well, this is the letter that I
16 issued rather more reluctantly thinking about the future
17 even though it was not my true intent.

18 MR. CHIBIB: Objection, Your Honor.

19 THE COURT: The objection is sustained.

20 BY MR. CHIBIB:

21 Q. Yes or no, you wrote Exhibit 144 on behalf of TPC and
22 signed it on behalf of TPC?

23 MR. QUINN: Compound.

24 THE COURT: Overruled.

25 THE WITNESS: So should I answer that question?

1 THE COURT: Yes.

2 THE WITNESS: Yes, this was written under my name
3 even though it was not my true intent.

4 BY MR. CHIBIB:

5 Q. And you signed it; correct?

6 A. Yes, that's my signature.

7 Q. Okay. And that's your signature and that's your name
8 and it says "President and CEO" right there; right?

9 A. Yes.

10 Q. You testified earlier that in exchange for writing this
11 letter that Mr. Sompote was going to forget about the
12 1976 agreement for writing this letter in exchange for the
13 rights in Thailand and five small countries surrounding it;
14 correct?

15 A. No. Rather than granting a license, what he requested
16 was to allow him to be a distributor for five countries
17 including Thailand and to restore his honor in Thailand.

18 Q. Yes. And you testified earlier that Mr. Sompote told
19 you that he would just forget about the 1976 agreement.
20 That was the words you used. "Forget about it." Right?

21 A. Well, he said something to the effect that he would not
22 raise the issue in connection with what's written on that
23 document or, rather, it might be more accurate to say that
24 he said he had no intention to claim or exercise what's
25 written on that document.

1 Q. Were you mistaken then when you testified earlier today
2 and said that he said he would forget about it? Were you
3 mistaken?

4 A. Well, mistaken? It could be a figure of speech. I
5 don't -- I think this is a tricky area. I'm not certain
6 what language I should use to describe this.

7 Q. Well, I'm not asking you a tricky question. I'm just
8 simply saying: Were you wrong earlier today right here on
9 the same stand when you said Mr. Sompote said he would
10 forget about it? Were you wrong?

11 A. Well, I was thinking about the future. I was hopeful
12 that Mr. Pete would take care of Thailand's and five
13 countries including Thailand; and I had said -- I had used
14 the expression "forget about it"; but I was more focused on
15 at that time on the future with Mr. Pete and the future for
16 Ultraman.

17 Q. Mr. Kazuo, in the first paragraph of Exhibit 144 -- and
18 I'm asking you a very, very simple yes-no question -- isn't
19 it true that you confirm that Mr. Sompote has the exclusive
20 rights to exploit certain properties, including "Ultraman"
21 series and "Jamborg Ace" series, in the territories that
22 include Thailand and in all media that include home video
23 and for indefinite period pursuant to license granting
24 agreement executed on March 4th, 1976, by and between
25 Tsuburaya Enterprise Co., Ltd., President Noboru Tsuburaya,

1 and Mr. Sompote Saengduenchai, President of Chaiyo Film Co.

2 Isn't that what you said?

3 A. It was not as if I confirmed. I did not acknowledge it
4 even though such language is within here. Because my father
5 and Mr. Sompote had been on the good terms like we saw in
6 the picture previously, they were hand-in-hand.

7 So I want to avoid a conflict; and from the
8 discussion between Mr. Pete and Ugawa, Mr. Sompote wanted to
9 handle five countries including Thailand.

10 So given that, if that's the case, I thought that
11 I could sign this document even though it -- this document
12 has the content that it does.

13 I was more focusing on the future. That was my
14 number one priority.

15 Q. Mr. Kazuo, you understand that TPC is claiming that
16 Exhibit 4A, the 1976 agreement, isn't valid because it's a
17 fake; right?

18 A. That's what I think.

19 Q. And yet you wrote Exhibit 144, signed your name on
20 behalf of TPC, and now you're saying it was just a lie,
21 literally not true; right?

22 A. Sorry. I didn't understand the question very well.

23 Q. Exhibit 144 of TPC's is a fake; right?

24 A. 144?

25 Q. Mr. Kazuo, we're looking at the very exhibit we've been

1 talking about for the last twenty minutes.

2 Exhibit 144 of yours is a fake; right?

3 A. Well, that's not what I was saying. He wanted to
4 handle Thailand and adjacent five countries and he wanted to
5 restore his honor.

6 And the relationship previously was such that my
7 father and Mr. Sompote would take picture right next to each
8 other. So I wanted to avoid a conflict, let alone
9 litigation.

10 And in my mind I thought it would be a better idea
11 to focus on the future to work with him. And, yes, I did
12 sign this but it was not my true intention.

13 Q. Would you please -- well, let me ask you this question.
14 TPC had a copy of the 1976 agreement for a month before you
15 wrote your letter of Exhibit 144; correct?

16 A. A copy?

17 Q. Yes.

18 A. I don't remember.

19 Q. Will you please turn to Exhibit 160, please.

20 A. (Witness complies.)

21 Q. Do you recognize 160?

22 A. So the document behind the number; right?

23 Q. I don't understand your question.

24 THE COURT: He's asking if it is the exhibit
25 behind the number and the answer is yes.

1 MR. CHIBIB: Sorry, Your Honor.

2 THE WITNESS: The question was whether I recognize
3 this document?

4 BY MR. CHIBIB:

5 Q. Yes.

6 A. I have not seen this document. I'm not sure about the
7 content. What is it?

8 Q. Okay. This document is dated June 24, 1996; correct?

9 A. Yes.

10 Q. And you were president and CEO of TPC on June 24, 1996?

11 A. Yes.

12 Q. And you had Mr. Ugawa meet with Mr. Sompote to discuss
13 the 1976 agreement; correct?

14 A. Yes.

15 Q. And Mr. Ugawa of the international division reported to
16 you; correct?

17 A. Yes.

18 Q. And this is a fax that was received by Mr. Ugawa from
19 Pete Saengduenchai; correct?

20 A. What does it say?

21 Q. It has the "to" and "from" up in the header.

22 A. Yes, it is.

23 Q. Okay.

24 MR. CHIBIB: Your Honor, we would offer 160 into
25 evidence.

1 MR. QUINN: No objection, Your Honor.

2 THE COURT: 160 will be admitted.

3 *(Exhibit 160 received in evidence.)*

4 *(The exhibit was displayed on the screen.)*

5 BY MR. CHIBIB:

6 Q. Exhibit 160 says in the first paragraph, "I hope that
7 you have received the copies of the contracts between
8 Mr. Sompote and Mr. Noboru. I assume that it should have
9 reached you on Wednesday or so sent by Mr. Sompote's
10 secretary via DHL."

11 Do you see that?

12 A. I think that's what's written based on the translation.
13 I don't speak or read English.

14 Q. And this is dated on June 24, 1996; right?

15 A. Yes.

16 Q. Okay. And if you'll look at Exhibit 161, which is the
17 next exhibit, do you see that?

18 A. Yes.

19 Q. What is 161?

20 A. What is it?

21 Q. Yes.

22 A. This? What should I say? A letter.

23 Q. Okay. What's the date of Exhibit 161?

24 A. The date is June 24th of 1996 and it says June.

25 Q. And this is a letter between -- from Jimmy Ugawa back

1 to Pete Saengduenchai; correct?

2 A. From Ugawa to Pete; correct.

3 Q. And it is the reference or the reference on the letter
4 is called "Acknowledgment of Receipt of Documents"; correct?

5 A. Is that how it should be translated? I need a
6 translation. You don't have a Japanese translation. I
7 can't be certain.

8 Q. I don't. But let me ask -- let me offer 161 in
9 evidence at this time.

10 MR. QUINN: No objection.

11 THE COURT: All right. 161 will be admitted.

12 *(Exhibit 161 received in evidence.)*

13 *(The exhibit was displayed on the screen.)*

14 BY MR. CHIBIB:

15 Q. The first two paragraphs of this letter say, "Dear
16 Pete, thank you for your fax dated June 24, 1996, concerning
17 the shipment of documents, copies of the contracts between
18 Mr. Sompote Saengduenchai and Mr. Noboru Tsuburaya."

19 Isn't that correct? The first paragraph says
20 that?

21 A. Yes.

22 Q. Then the next sentence says, "The package arrived via
23 DHL just after I received your fax today. Thank you."

24 A. Yes.

25 Q. And so on June 24, 1996, TPC had a copy of the

1 1976 agreement; correct?

2 A. According to this that might have been the case.

3 Q. And then you wrote Exhibit 144 one month later on
4 July 23rd, 1996; correct?

5 A. Yes.

6 THE COURT: Counsel, why don't we take our evening
7 recess at this time.

8 Ladies and gentlemen, that concludes today's
9 session. Please do not form or express any opinion about
10 the case until the matter is finally submitted to you.

11 Don't talk to anyone about the case, don't allow
12 anyone to talk to you about the case, and don't conduct any
13 research of any kind on any subject matter connected with
14 this trial.

15 I'll ask that you come back tomorrow at 9:00 a.m.
16 and we can resume testimony at that time. All right?

17 Have a great evening.

18 THE CLERK: All rise.

19 *(The jurors exited the courtroom.)*

20 *(The following was held outside the jury's presence:)*

21 THE CLERK: Please be seated.

22 THE COURT: Madam Interpreter, if you'll instruct
23 the witness he may step down and you may step down as well.

24 Thank you again.

25 *(Pause in the proceedings.)*

1 THE COURT: All right.

2 So let me just touch upon a few housekeeping
3 matters. The parties, what my time clock shows, plaintiff
4 has 11 hours, 28 minutes, and 12 seconds; and defense has
5 11 hours, 26 minutes, and 5 seconds.

6 I do that usually at the end of the day so that
7 the parties know where they stand. But I'll make an
8 observation that at least, according to the first amended
9 trial witness list, by my estimation a witness that was
10 estimated to take one hour to three hours, the
11 cross-examination was estimated at .7 hours took an hour.

12 And then similarly, the second witness that by
13 plaintiff's estimation was one hour, I think might have
14 reached that or close to it; but the cross-examination has
15 been almost an hour. Double the time.

16 So, again, it's your time. How you want to use
17 it. But I'm letting you know that this is what time you
18 both have left.

19 Is there anything further that we need to discuss
20 today or I guess perhaps, more importantly, are there any
21 evidentiary issues that you all anticipate will come up
22 tomorrow?

23 I'd like to get more trial time in if possible.
24 So are there any issues that either side anticipates?

25 MR. QUINN: We don't know of any, Your Honor.

1 THE COURT: Mr. Chibib?

2 MR. CHIBIB: Neither do we, Your Honor.

3 THE COURT: Okay. So we will start then at 9:00
4 a.m. If there are some issues, we're going to start with
5 the witness's testimony and we'll deal with it either at a
6 break or during the lunch hour. All right?

7 MR. CHIBIB: Thank you, Your Honor.

8 THE COURT: All right. Have a good evening,
9 everyone.

10 THE CLERK: All rise.

11 Court is adjourned.

12 (At 5:05 p.m. proceedings were concluded.)

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CERTIFICATE

I, PAT CUNEO, CSR 1600, hereby certify that
pursuant to Section 753, Title 28, United States Code, the
foregoing is a true and correct transcript of the
stenographically reported proceedings held in the
above-entitled matter and that the transcript page format is
in conformance with the regulations of the Judicial
Conference of the United States.

Date: February 7, 2018

/s/ PAT CUNEO

PAT CUNEO, OFFICIAL REPORTER
CSR NO. 1600

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